THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 4th day of July,2007

W.P.No.11347 of 2002

Between:-

Sri Srinivasa Agnikula
Khastriya Fishermen
Cooperative Society Ltd.,
Regd.No.C-28, Mosalapalli
village, Ambajipeta Mandal,
East Godavari District, rep.
by its President K.Ammi Raju … Petitioner

and

District Collector, East Godavari
at Kakinada and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondents 1 and 2 in not granting leasehold rights of fishing in respect of 'Manchineeti Cheruvu' of Gangalakurru village, Ambajipet Mandal, East Godavari District for the period commencing from 1-7-2002 onwards and trying to grant the same in favour of 3rd respondent as arbitrary and illegal; consequently, to declare that the 3rd respondent is not entitled for any lease for the purpose of fishing rights in the above tank.

This case has got chequered history. Petitioner is Sri Srinivasa Agnikula Kshatriya Fishermen Cooperative Society Limited, Mosalapalli village, Ambajipeta Mandal, East Godavari District. Respondent No.3 is Rajaka Seva Sangham, Gangalakurru village, Ambajipeta Mandal, East Godavari District. It appears, there is a dispute as to the leasehold rights of 'Manchineeti Cheruvu' of Gangalakurru village between the petitioner and the 3rd respondent for several decades.

The contention of the petitioner is that as early as on 13-6-1988, by way of a resolution of the Gram Panchayat, Manchineeti Cheruvu of Gangalakurru village was divided into two parts. One part was allotted to fishermen and the other to Rajakas. In spite of this, for the lease period commencing from 1-7-2002 to 30-6-2005, respondents 1 and 2 have treated the tank as one and were trying to grant leasehold rights of fishing to Rajaka Seva Sangham, Gangalakurru-3rd respondent herein. Further, as per para 3(a)(i) of G.O.Ms.No.343, dated 10-4-

1978, the Gram Panchayat shall lease out, except sources set apart for washing the clothes by the local washermen, the rights of fishing in minor irrigation tanks and other tanks vested in it under clause (b) of sub-section (1) of Section 65 and under sub-section (2) of Section 85 of the Andhra Pradesh Gram Panchayats Act,1964, without public auction, to the fishermen cooperative society of the local area. Therefore, the petitioner is automatically entitled for grant of leasehold rights in its favour, since the tank was divided into two (2) as early as on 13-6-1988.

Whereas, learned counsel for the 3rd respondent, strenuously contended that even before filing the present Writ Petition, leasehold rights were granted in favour of 3rd respondent for a period of three years from 1-7-2002 to 30-6-2005 and even that lease period has expired. Further, in the year 2001, a separate resolution has been passed by the Gram Panchayat annulling the resolution dated 13-6-1988; thus, the tank remains to be one and as the tank is set apart for washing of the clothes by the local washermen, the 3rd respondent alone is entitled for grant of leasehold rights.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

May be, the lease period was completed on 3-6-2005. But the *lis* between the parties is still subsisting, in view of the fact that there is no clear cut decision taken by any authority as to whether the tank was divided under a resolution dated 13-6-1988 of the Gram Panchayat into two (2) parts and one part of the tank is allotted to 3rd respondent and the other is left for being allotted to the petitioner herein and whether the resolution dated 19-6-2001 annulling the resolution dated 13-6-1988 is valid and whether it was given effect to or not. Learned counsel for the petitioner, however, stated that the Gram Panchayat

never pleaded at any point of time that the resolution passed on 13-6-1988 dividing the tank into two was annulled at a later point of time.

Under the above circumstances, I deem it appropriate to direct respondents 1 and 2 to issue notice to the petitioner as well as the 3rd respondent and after taking both oral and documentary evidence from them, decide as to whether there was a division of the tank into two in the year 1988, whether the same was given effect to and the resolution dated 19-6-2001 annulling the resolution dated 13-6-1988 is true and valid and whether the petitioner is entitled for grant of leasehold rights to one part of the tank or the 3rd respondent is entitled for the grant of leasehold rights for the entire tank treating it as being set apart for washing purpose. The said exercise shall be completed before the next lease period commences and if no decision is taken by that time, licence shall not be granted to any of the parties.

With the above directions, the Writ Petition is disposed of. No order as to costs.

04-7-2007

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